REMARKS

Reconsideration is requested.

The specification has been amended to include a cross-reference to the parent applications, as suggested by the Examiner.

The specification has been amended to include a reference to the Brief Description of the Drawings. The description of Figure 6 has also been amended to obviate the objection to the disclosure. Nothing further is believed to be required in this regard however the Examiner is requested to advise the undersigned if otherwise.

The Examiner is requested to return a completely initialed PTO-1449 Form which was filed October 18, 2001, as a partially initialed copy of the same was received with the Office Action of June 30, 2004. Specifically, the Examiner has initialed all the references except for U.S. Patent No. 5,650,298 and executed the entirety of the PTO-1449 Form. The Examiner has cited U.S. Patent No. 5,650,298, in rejecting the claims of the application such that the undersigned presumes the Examiner has considered the reference and a completely initialed copy of the PTO-1449 Form bearing the OIPE stamp of January 2, 2002, is requested. The undersigned further notes that the Examiner has listed the patent on the PTO-892 Form received with the Office Action of June 30, 2004.

The specification has been amended to include sequence identifiers and a revised Sequence Listing to include the sequences disclosed on page 35 of the application, as required by the Examiner. The attached paper and computer readable copies of the Sequence Listing are the same. No new matter has been added.

The specification is submitted to be in compliance with the Rules however the Examiner is requested to advise the undersigned in the event anything further is required.

The claims have been amended with the Examiner's comments on page 4 of the Office Action dated June 30, 2004, in mind. Withdrawal of the objections of the claims is requested.

The Section 112, second paragraph, rejection of claims 1-4, 9 and 15 is moot in view of the above. The pending claims are submitted to be definite.

The Section 102 rejection of claims 1-4 over Bujard (U.S. Patent No. 5,650,298) is moot in view of the above. The claims are submitted to be patentable over the cited art and consideration of the following in this regard is requested.

The '298 patent is believed to relate to transgenic animals presenting two transgenes; one of which codes for tTA and the other for a polypeptide under control of a promoter containing the operators tet. This document also relates to contructions for targeted introduction by homologous recombination of the transgene coding for the transactivator tTA.

The '298 document describes two different embodiments which the applicants believe must be considered separately. In a first embodiment, this document describes particular constructions intended to allow the integration of a tetracycline-regulated expression system in a specific region of the genome of a cell. These constructions comprise in particular sequences of homologies to allow the homologous recombination. Thus, as specified in claim 11 of '298, the DNA molecule comprises a sequence of a 5' flanking regulatory region of the gene of interest. This region must be

sufficiently large to allow the homologous recombination (see col. 3, lines 34-42). The '298 patent does not specify nor suggest that the sequence of a 5' flanking regulatory region must be functional in the targeting construct intended to allow the integration of a tetracycline-regulated expression system and that this sequence includes the promoter of the gene of interest. On the contrary, the applicants believe that it is specified in '298 patent (col 14 l. 36-41) that the presence of the promoter region of the gene of interest in the targeting construct is completely excluded. FIG 13 shows the targeting construct integrated into the genome.

In the second embodiment disclosed in the '298 patent, the applicants believe that two separate and distinct constructs are used: a first one carries the sequence coding for the transactivator tTA; the other carries a promoter linked to tet operators and a coding sequence (see FIG 11). Thus, this embodiment is clearly different from the object of the present invention. Moreover, the promoter of the β-actin has been described in the '298 patent only within this second embodiment.

The '298 patent therefore is not believed to teach the presently claimed invention.

The Section 102 rejection of Claim 15 over Jackerott (Journal of Histochem. & Cytochem. 1997; 45(12):1643-50), is moot in view of the above. The claims are submitted to be patentable over the cited art and consideration of the following in this regard is requested.

Claims 15 has been rewritten as new claim 34. Claim 34 is directed to an isolted cell comprising a recombinant adenovirus which comprises a nucleic acid according to claim 9. The claimed isolated nerve cell is not disclosed nor suggested by Jackerott et al.

The present application is submitted to be in condition for allowance and a Notice to that effect is requested.

The Examiner is requested to advise the undersigned in the event anything further is required.

Respectfully submitted,

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Telephone: (703) 816-4000
Facsimile: (703) 816-4100

SEQUENCE LISTING

<110> MALLET, JACQUES
CORTI, OLGA

<120> NOVEL SYSTEM FOR REGULATING TRANSGENE EXPRESSION

<130> 3665-94

<140> PCT/FR99/02752
<141> 1999-11-09

<150> FR9814080
<151> 1998-11-09

<150> US/122600
<151> 1999-03-03

<160> 3

<170> PatentIn Ver. 2.1

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<212> DNA
<213> Artificial Sequence

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<213> Artificial Sequence

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